

## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231 www.uspto.gov

APPLICATION NO.	FILI	NG DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,702	09/898,702 07/02/2001		Benjamin W. Slivka	3382-59319	4420
	7590	12/16/2002			
KLARQUIST SPARKMAN CAMPBELL LEIGH & WHINSTON, L				P EXAMINER	
Suite 1600 One World Tr	ada Canta	•	HARRELL, ROBERT B		
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Portland, OR 97204				ART UNIT	PAPER NUMBER
				2142	^
			1	DATE MAILED: 12/16/2002	$\mathcal{A}$

Please find below and/or attached an Office communication concerning this application or proceeding.

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Application No.   Applicant(s)    Offfice Action Summary   Exeminer   Harrell, Robert B.   2142    Exeminer   Harrell, Robert B.   2142    A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAIL RING DATE OF THIS COMMUNICATION.    Extensions of time may be enabled under the provisions of 37 CFR 1.15(s). In now work, nays a reply see timely filed what 3K (b) MCMTH Sent the main glade of this communication, early white the stateboard may be selected under the provisions of 37 CFR 1.15(s). In now work, however, may a reply see timely filed what 3K (b) MCMTH Sent the mail glade of this communication, early white the stateboard period fromely in the state of the may be selected under the provisions of 37 CFR 1.15(s). In now work, however, may be selected the communication.    Failure to provision the state of the mail of the summarization early white the stateboard many of this (30) days will be so considered limitely.    1 NO period for profy is specified above. The manufaction of the state of the communication.    1 Part of the profit of the profit of the summarization early white the stateboard period fromely white the enable specified period fromely the stateboard period fromely white the enable specified period fromely the stateboard period fromely white the enable specified period fromely the stateboard period fromely white the enable specified period fromely the stateboard period fromely white the enable specified period fromely send of the communication.    1 No period for reply is specified and period period fromely white the enable specified period fromely white the enable specified period fromely white the enable specified period fromely send of the state of the profit period pe	0		//					
## Examiner   Harroll, Robert B.   2142    ## Forial for Reply    A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the processors of 37 CFR 1.58(a). In on event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In on event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In on event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In on event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In on event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In one event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In one event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In one event, however, may a reply be timely filled the processor of 37 CFR 1.58(b). In one event, however, may a reply be depth of the processor of 37 CFR 1.58(b). In one event, however, may a reply be depth of the processor of 37 CFR 1.58(b). In one event, however, may a reply be depth of the processor of 37 CFR 1.58(b). In one event, however, may a reply be depth of the processor of 37 CFR 1.58(c). In 18 CFR 1.58(c		Application No.	Applicant(s)					
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The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Elemetros for the may be a evilation user the procession of 3 °C FR 1.136(a). In no avent, however, may a reply be limely filled the proof for each special above the treatment of 3 °C FR 1.136(a). In no avent, however, may a reply be limely filled in the proof for each special cause the treatment of 3 °C FR 1.136(a). In no avent, however, may a reply be limely filled in the proof for each special value of the communication of the proof of the pr	Onice Action Summary	Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of them may be available under the provisions of 37 CFR 1.38(a). In no event, however, may a raply be timely filled between the provisions of 37 CFR 1.38(a). In no event, however, may a raply be timely filled between the provisions of 37 CFR 1.38(a). In no event, however, may a raply be timely filled between the provisions of 37 CFR 1.38(a). In no event, however, may a raply be timely filled between the provisions of 37 CFR 1.38(a). In no event, however, may a raply be timely filled between the provisions of 18 CFR 1.38(a). MONTHS from the mailing date of this communication of the provision of talling and tall	The MAN INC DATE of this conversion is also		<u> </u>					
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time map by a validable under the provisions of 3° CPR 1.38(a). In no event, however, may a reply be limely filed after \$1X, (8) MCNITIS from the mailing date of this communication.  If NO percolor or reply is securable under the provisions of 3° CPR 1.38(a), in no event, however, may a reply be limely filed after \$1X, (8) MCNITIS from the mailing date of this communication.  If NO percolor or reply is securable above, the maximum traistory period unlikely that will enter \$1X, (8) MCNITIS from the mailing date of this communication.  Fallow is reply within the set or executed period for reply vill, by saturac, cause the application to become ARANDONED (38 U.S.C. § 133).  Any reply received by the Office due than there entering after the mailing date of this communication, even if timely flexify, may reduce any secure of the communication, even if timely flexify, may reduce any secure of the communication of the communication.  Status  1)[2] Responsive to communication(s) filed on a accordance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)[2] Claim(s) 28-35 and 37-55 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  6)[2] Claim(s) is/are allowed.  6)[2] Claim(s) is/are allowed.  6)[3] Claim(s) is/are allowed.  7)[4] The proposed drawings is because the examiner.  10)[6] The drawing(s) filed on 22 July 22021 is/are: a)[6] accepted or b)[7] objected to by the Examiner.  Application Papers  9)[7] The proposed drawings or required in reply to this Office action.  12] The oath or declaration is objected to by the Examiner.  13][7] Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)[7] All b)[7] some * c)[7] None of:  14[7] Certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17 Z(a)								
1) Responsive to communication(s) filed on \$\frac{827702 et al.}{20}\$ This action is FINAL. 2b\\ \text{This action is ron-final.}\$  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under \$Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) \$\frac{28-35 and 37-55}{26-35 is/are}\$ is/are pending in the application.  4a) Of the above claim(s)	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>							
2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 28-35 and 37-55 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) is/are allowed.  6)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. Sea 37 CFR 1.85(a).  11)  The proposed drawing correction filed on is: a) proved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b)  Some * c) None of:  1.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a)  The translation of the foreign language provisional application has been received.  15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		1/02 of al						
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1. Claims 28-35 and 37-55 remain for examination.

- 2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
- 3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.
- 4. Claims 28-35 and 37-55 are rejected under 35 U.S.C. 102 (e) as being anticipated by Fawcett (5,845,077).
- 5. Per claim 53, Fawcett anticipated a comuter-readable medium containing the applicant's invention as currently claimed since those skilled in the art knew that computer software (eg., see Abstract first four words) was stored (locally or at a host site's main storage as in figure 2 (42)) and/or transported (eg., CD ROM) on computer-readable medium if not at least the storage in the computers memory such that the software could be executed and such storage in and of itself was a computer-readable storage medium. Also, Fawcett taught a distribution file (computer

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software) for distribution and installing software on a computer (user computers of figure 2), the distribution file comprising:

- a) software installable at the computer (any operating system such as Windows95 (R) in col. 6 (lines 40-49)),
- b) an installer co-resident in the distribution file with the software, the installer operable to install the software (eg., see col. 8 (lines 40-63) and/or col. 9 (lines 59-63));
- c) an extractor co-resident in the distribution file with the software, the extractor operable to extract the software from the distribution file and automatically invoked upon execution of the distribution file (since "bulletin board systems" (BBSs) were referenced in col. 2 (lines 10-11) and "modem" in col 2 (line 27) data compression was inherently known to have been implemented to reduce storage and bandwidth; thus, such extractors were required to "decompress" the file for "immediate installation" (col. 8 (line 49)); OR, the "installation application" of col. 9 (lines 51-55));
- d) installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software, the installer starting instructions operable to start the installer to install the software (eg., see col. 8 (lines 40-63)).

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6. Per the other claims (28-35, 37-52, 54 and 55) they do not teach or define above the corresponding claims, save for the reasons given bellow, and are thus rejected for the reasons given above.

- 7. Per claims, such as, 28 and 29, the file was stored at a location referenced and accessible to the remote computer (user computer) via a computer network (eg., see col. 4 (line 34), col. 5 (lines 2-28), and col. 8 (lines 17-25)).
- 8. Per claims, such as, 40 and 41, see col. 10 (line 18).
- 9. Per claims, such as, 42-44, see col. 8 (lines 26-58) in that backups (col. 8 (line 34)) are required since files are modified "updated" or removed "deleted". Also, changing a file with a new file effectively deletes the old file if the two have the same name.
- 10. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the data of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).
- 11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (703) 305-9692. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.
- 12. The fax phone numbers for the Group are (703) 746-7238 for After-Final, (703) 746-7239 for Official Papers, and (703) 746-7240 for Non-Official and Draft papers.
- 13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

ROBERT B. HARRELL PRIMARY EXAMINER